

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,

Plaintiff,

:

Case No. 3:19-cr-137

Civil Case No. 3:24-cv-00104

- vs -

District Judge Walter H. Rice

Magistrate Judge Michael R. Merz

CRAWFORD P. BOGLE,

Defendant.

:

ORDER

This action under 28 U.S.C. § 2255 is before the Court on Defendant's Motion to Amend (ECF No. 796). On March 17, 2025, the undersigned proposed to resolve questions about Defendant's filings by taking certain steps which were delineated, and the parties were offered an opportunity to object by March 31, 2025 (Order for Additional Briefing, ECF No. 797, PageID 4812). Neither has.

Accordingly, it is hereby ORDERED that :

1. Defendant's Motion to Amend is granted with a *nunc pro tunc* filing date of April 3, 2024;
2. Defendant's original Motion to Vacate as it was filed is denied as moot;
3. The Report and Recommendations (ECF No. 771) and the Substituted Report and Recommendations (ECF No. 785) are WITHDRAWN; and

4. The United States is ordered to file an answer to the Amended Motion not later than June 6, 2025.

Defendant may, not later than twenty-one days after the Answer is filed, file and serve a reply or traverse to the Answer.

Defendant has made claims relating to conversations between himself and his trial counsel. A claim of ineffective assistance of counsel impliedly waives the privilege as to any attorney-client communications relevant to any such claim. *In re Lott*, 424 F.3d 446 (6th Cir. 2005); *Tasby v. United States*, 504 F.2d 332 (8th Cir. 1974); *Randall v. United States*, 314 F.2d 800 (10th Cir. 1963); *United States v. Ballard*, 779 F.2d 287 (5th Cir. 1986); *Laughner v. United States*, 373 F.2d 326 (5th Cir. 1967); *Crutchfield v. Wainwright*, 803 F.2d 1103 (11th Cir. 1986). The Court finds that Defendant has waived the attorney-client communication privilege for any communications relevant to his claims made in the Amended § 2255 Motion.

April 8, 2025.

s/ Michael R. Merz
United States Magistrate Judge